

# COMMITTEE REPORT

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## MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 33, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete everything after the enacting clause and insert the
- 2 following:
- 3 SECTION 1. IC 29-3-1-16 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. "Volunteer
- 5 advocate for ~~seniors~~ **incapacitated adults**" means an individual who:
- 6 (1) is a volunteer;
- 7 (2) has completed a limited guardian training program approved
- 8 by a court;
- 9 (3) is supervised by a community volunteer advocates for ~~seniors~~
- 10 **incapacitated adults** program;
- 11 (4) is appointed by a court to serve as a limited guardian for an
- 12 incapacitated person or protected person who is at least ~~fifty-five~~
- 13 **(55) eighteen (18)** years of age; and
- 14 (5) provides reports and makes recommendations to a court.
- 15 SECTION 2. IC 29-3-8.5-1 IS AMENDED TO READ AS
- 16 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. A court in a
- 17 proceeding under this article may appoint a volunteer advocate for
- 18 ~~seniors~~ **incapacitated adults**.
- 19 SECTION 3. IC 29-3-8.5-2 IS AMENDED TO READ AS
- 20 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. A volunteer
- 21 advocate for ~~seniors~~ **incapacitated adults** shall submit to the court:
- 22 (1) a progress report fifteen (15) days after the date of
- 23 appointment describing the matters required by the court; and
- 24 (2) a final report sixty (60) days after the date of appointment:
- 25 (A) describing the matters required by the court; and

(B) making recommendations to the court as to whether a need exists for continued representation of the incapacitated or protected person.

SECTION 4. IC 29-3-8.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. A volunteer advocate for ~~seniors~~ **incapacitated adults** shall:

- (1) serve as a limited guardian to represent and protect the interests of an incapacitated or protected person who is at least ~~fifty-five (55)~~ **eighteen (18)** years of age;
- (2) investigate and gather information regarding the health, welfare, and financial circumstances of the incapacitated or protected person, as directed by a court;
- (3) facilitate and authorize health care, social welfare, and residential placement services as needed by the incapacitated or protected person;
- (4) advocate for the rights of the incapacitated or protected person;
- (5) facilitate legal representation for the incapacitated or protected person; and
- (6) perform any other duty required by a court.

SECTION 5. IC 29-3-8.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. A volunteer advocate for ~~seniors~~ **incapacitated adults** may:

- (1) consent to medical and other professional care and treatment for the incapacitated or protected person's health and welfare;
- (2) secure the appointment of a guardian or coguardian in another state;
- (3) take custody of the incapacitated or protected person and establish the person's place of abode within Indiana or another state in accordance with IC 29-3-9-2;
- (4) institute proceedings or take other appropriate action to compel the performance by any person of a duty to support the incapacitated or protected person's health or welfare; and
- (5) delegate to the incapacitated or protected person certain responsibilities for decisions affecting the person's business affairs and well-being.

SECTION 6. IC 29-3-8.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. If a court appoints an individual to serve as a volunteer advocate for ~~seniors~~, **incapacitated adults**, the appointment shall be for a period of sixty (60) days. After the initial sixty (60) day period, the court may, upon petition by the volunteer or upon the court's own motion, extend the appointment for a period as determined by the court to be necessary to protect the interests of the incapacitated or protected person.

SECTION 7. IC 29-3-8.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. A volunteer advocate for ~~seniors~~ **incapacitated adults** is considered an officer of the court for the purpose of representing the interests of an incapacitated or protected person.

SECTION 8. IC 29-3-8.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. The court may

1 appoint an attorney to represent a volunteer advocate for ~~seniors~~.  
 2 **incapacitated adults.**

3 SECTION 9. IC 29-3-8.5-8 IS AMENDED TO READ AS  
 4 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. Except for gross  
 5 misconduct:

6 (1) a volunteer advocate for ~~seniors~~ **incapacitated adults**  
 7 program that;

8 (2) an employee of a volunteer advocates for ~~seniors~~  
 9 **incapacitated adults** program who; or

10 (3) a volunteer for a volunteer advocates for ~~seniors~~  
 11 **incapacitated adults** program who;

12 performs duties in good faith is immune from any civil liability  
 13 resulting from the program's, employee's, or volunteer's performance.

14 SECTION 10. IC 29-3-8.5-9 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. A volunteer  
 16 advocate for ~~seniors~~ **incapacitated adults** under this chapter is not  
 17 authorized to consent to or refuse health care (as defined in  
 18 IC 16-36-1-1) for an individual if:

19 (1) a spouse, a parent, an adult child, or an adult sibling of the  
 20 individual or the individual's religious superior, if the individual  
 21 is a member of a religious order, is available, capable, and  
 22 suitable to consent to or refuse the health care on behalf of the  
 23 individual; or

24 (2) the individual has previously:

25 (A) appointed a health care representative under IC 16-36-1;

26 (B) authorized health care under IC 16-36-1.5, IC 16-36-4,  
 27 or IC 16-36-5;

28 (C) executed a power of attorney under IC 30-5-4; or

29 (D) had a guardian appointed by the court under IC 29-3.

30 SECTION 11. IC 29-3-9-2 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. A guardian (other  
 32 than a temporary guardian) or volunteer advocate for ~~seniors~~  
 33 **incapacitated adults** appointed under IC 29-3-8.5 may, with the  
 34 approval of and under such conditions as may be imposed by the court  
 35 after notice and hearing, change the physical presence of the protected  
 36 person to another place in Indiana or to another state if the court finds  
 37 that such a change is in the best interests of the protected person. Upon  
 38 such a change, the guardianship may be limited or terminated by the  
 39 court.

1           SECTION 12. IC 34-30-2-125.5, AS AMENDED BY P.L.2-2005,  
2       SECTION 114, IS AMENDED TO READ AS FOLLOWS  
3       [EFFECTIVE JULY 1, 2006]: Sec. 125.5. IC 29-3-8.5-8 (Concerning  
4       a volunteer advocate for ~~seniors~~; **incapacitated adults**).  
          (Reference is to SB 33 as introduced.)

**and when so amended that said bill be reassigned to the Senate Committee on Judiciary.**

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GARTON, Chairperson